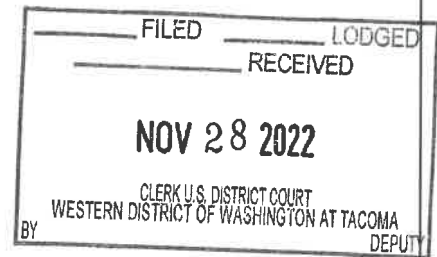


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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Karen Martinez, an individual

Plaintiff(s),

v.

Pierce County, a municipal corporation and  
a political subdivision of the State of  
Washington, et al

Defendant(s).

CASE NO. 3:22-cv-05919-RSL  
[to be filled in by Clerk's Office]

COMPLAINT FOR VIOLATION OF  
CIVIL RIGHTS  
(for use only by plaintiffs not in custody)

Jury Trial: ☒ Yes ☐ No

**I. THE PARTIES TO THIS COMPLAINT**

A. Plaintiff(s)

*Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.*

Name	<u>Karen Martinez</u>
Street Address	<u>PO Box 11231</u>
City and County	<u>Olympia Thurston</u>
State and Zip Code	<u>Washington 98508</u>
Telephone Number	<u>253.569.6398</u>

B. Defendant(s)

*Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an*

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individual defendant, include the person's job or title (if known). Attach additional pages if needed.

## Defendant No. 1

Name	Pierce County, Kim DeMarco
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Job or Title (if known)	Deputy Prosecuting Attorney
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Street Address	930 Tacoma Ave S Room 946
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City and County	Tacoma Pierce
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State and Zip Code	Washington 98402
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Telephone Number	253-798-7400
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<input type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity
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## Defendant No. 2

Name	Pierce County, Sandi Moore
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Job or Title (if known)	Assessor-Treasurer Office
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Street Address	2401 S. 35 <sup>th</sup> Street
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City and County	Tacoma Pierce
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State and Zip Code	Washington 98409
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Telephone Number	253-798-6111
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<input type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity
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## Defendant No. 3

Name	Pierce County, Names unknown
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Job or Title (if known)	2 Sherriff Deputies
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Street Address	930 Tacoma Ave S First Floor
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City and County	Tacoma Pierce
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State and Zip Code	Washington 98402
--------------------	------------------

Telephone Number	253-798-7530
------------------	--------------

<input type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity
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II. PREVIOUS LAWSUITS

Have you brought any other lawsuits in any federal court in the United States:?

☐ No ☒ Yes If yes, how many? One

Describe the lawsuit:

Bankruptcy, Chapter 13, Non-Standard at behest of Pierce County, dismissed by Trustee

Parties to this previous lawsuit:

Plaintiff(s)

Karen Robinson

Defendant(s)

Creditors: Pierce County (property taxes), Dept of Education (student Loan) and Bank of America (credit cards)

*(If there is more than one previous lawsuit, describe the additional lawsuits on another piece of paper using the same outline. Attach additional sheets, if necessary)*

Court and name of district:

United States Bankruptcy Court, Western District, Tacoma Division

Docket Number: 18-43743-MJH

Assigned Judge: don't recall

Disposition: *(For example, was the case dismissed as frivolous or for failure to state a claim? Was it appealed? Is it still pending?)*

Dismissed on 12/19/2019 because Plaintiff had not sold real estate parcel which property taxes were due on. Pierce County had auction sale on 11/27/2019, prior to Bankruptcy dismissal. No Plaintiff action in appeal nor is it still pending.

Approximate filing date of lawsuit: Nov 2, 2018

Approximate date of disposition: Dec 19, 2019

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### III. BASIS FOR JURISDICTION

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suite against (*check all that apply*):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

42 USC 1981-Equal Rights Under the Law

42 USC 1983 Civil Action for Deprivation of Rights

Amendment IV "secure in ...houses..and effects against unreasonable.seizure,

Amendment V & XIV "not be deprived of life, liberty, property without due process;"

Amendment VII"nor excessive fines imposed, nor cruel & unusual punishments

inflicted".

Amendment IX "certain rights shall not be construed to deny ...others retained by the people"

C. ~~Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?~~

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D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. ~~If you are suing under Bivens, explain how each defendant acted under color of federal law. Attach additional pages if needed.~~

Plaintiff denied all the following rights afforded by the State of Washington:

**Washington State Constitution**

**Article VII Section 10- Revenue and Taxation -Retired Person Property Tax Exemption.**

**Revised Code of Washington**

**RCW42.36 Fairness Doctrine (Prejudgment of issue affecting individual property rights)**

**RCW 84.36.381 Residences—Property tax exemptions—Qualifications.**

"(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, (3)(a) The person claiming the exemption must be: or must have been, at the time of filing, retired from regular gainful employment by reason of disability;

**RCW 84.37.060 Right to defer not reduced by contract or agreement-**

**RCW 84.56.020 Taxes collected by treasurer—**

"Waiver of interest and penalties for qualified taxpayers subject to foreclosure. ... and the following requirements are met: (a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor; (b) The taxpayer occupies the property as their principal place of residence; and (c) The taxpayer has not previously received a waiver on the property as provided under this subsection."

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**RCW 84.56.029 Payment Assistance**

1) If Taxpayer requests assistance for payment of current year or delinquent taxes the county assessor, if applicable: a) May assist...applying for a ... exemption ...b) May assist ... applying for a...deferral...c) Must refer taxpayer to statewide foreclosure hotline recommended by the Washington state housing finance commission

2) A county treasurer may also refer taxpayer requesting tax payment assistance to the county assessor's office under ss1 of this section

**RCW 84.64.050 Certificate to county—Foreclosure—Notice—**

*"Sale of certain residential property eligible for deferral prohibited."* (4) The property must be sold "as is." There is no guarantee or warranty of any kind, express or implied, relative to: ...Title"

**RCW 84.68.070 Remedy exclusive-Exception.**

"That this section shall not be construed as depriving the defendants in any tax foreclosure proceeding of any valid defense allowed by law to the tax sought to be foreclosed therein except defenses based upon alleged excessive value"

**\*\*Washington State Legislative Intent\*\*****RCW 84.36.379 Residences—Property tax exemption—Findings.**

"... property tax exemption ...should be made available on the basis of a retired person's ability to pay property taxes...that person's disposable income as defined in RCW 84.36.383."

**RCW 84.36.381 Residences—Property tax exemptions—Qualifications-Intent—2018:**

"... 2) It is the legislature's *specific public policy objective to provide tax relief to senior citizens, disabled persons, and veterans.* The legislature recognizes that

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1 property taxes impose a substantial financial burden on those with fixed incomes  
2 and that property tax relief programs have considerable value in addressing this  
3 burden...”

4 **RCW 84.37.010** Deferrals-Findings-Intent.

5 “(2)It is the intent of the legislature to: (a)Provide *property tax safe harbor for*  
6 *families in economic crisis*; (b) *prevent existing homeowners from being driven*  
7 *from their homes because of overly burdensome property taxes.*”

8 **RCW 84.38.010** Legislative finding and purpose.

9 “... (Deferral), an amount of up to eighty percent of their equity in said property.  
10 This deferral program is intended to *assist retired persons in maintaining their*  
11 *dignity and a reasonable standard of living by residing in their own homes,*  
12 *providing for their own needs, and managing their own affairs without*  
13 *requiring assistance from public welfare programs.*”

14 **RCW 84.56.020** Taxes collected by treasurer Finding—Intent—2021 c 122:

15 See note following RCW 2.32.050. Findings—2013 c 239: "The legislature finds  
16 that it is difficult for many property owners to pay property taxes under the  
17 current system where past due property tax payments must be paid in full,  
18 including penalties and interest. The legislature finds that *providing counties and*  
19 *property owners some flexibility in structuring past due property tax payments*  
20 *may provide some relief for property owners with delinquent tax payments.*"

21 **Washington State Protections**

22 *Fair Housing Act*

23 *Washington Law against Discrimination*



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## IV. STATEMENT OF CLAIM

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- 6/0  
9/ 2011 Plaintiff medically retired re: disability (Social Security for Plaintiff, age52)
- Co  
unity denied Due Process / Equal Protections during the entire "redemption period" by refusing to allow Plaintiff to pay amount of arrears. Instead, County insisted that Plaintiff could only pay as an "agent" of Dynamic Trust which "did not exist" according to the Secretary of State.
- Co  
unity denied Due Process / Equal Protection by not offering Payment Assistance information, to include the number for the Foreclosure Hotline
- Co  
unity denied Due Process / Equal Protection when they sold residential property eligible for deferral, which is prohibited.
- Co  
unity denied Due Process / Equal Protection when they did not waiver interest and penalties for qualified taxpayers subject to foreclosure.
- Co  
unity denied Due Process / Equal Protection related to Legislative Intent regarding the aged, disabled and Veteran status regarding property taxes and foreclosure.



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1 • County continued to assess Excessive Fines making arrears untenable ( including  
 2 requirement to Tender Excessive Fine to trigger right to “set-aside” auction sale.

4 • County denied Due Process by not advising of rights afforded by the CDC eviction  
 5 moratorium declaration which would have prevented Plaintiff from becoming homeless  
 6 during the pandemic.

8 • County caused Surplus Funds to be held up in a court dispute although Duty of Care, proper  
 9 notice, and Due Process requirements could have prevented this harm.

11 A. Where did the events giving rise to your claim(s) occur?

12 Events would take place in Pierce County in the unincorporated area outside of Orting,  
 13 WA. Specific address is 21020 194<sup>th</sup> Ave E.

14 B. What date and approximate time did the events giving rise to your claim(s) occur?

15 Auction sale occurred on 27 November, 2019 , time unknown.

16 Ejectment occurred on 9 Sept, 2020 at about 10am.

17 C. What are the facts underlying your claim(s)? *(For example: What happened to you?*

18 *Who did what? Was anyone else involved? Who else saw what happened?)*

19 In 1993, due to life-threatening illness, Plaintiff would put residence into an

20 Unincorporated Business Organization for surety that her young children would be

21 provided for. Washington Secretary of State would deny the existence of this Trust for

22 reasons unknown. Pierce County would continue to keep the Trust on the tax rolls.

23 Plaintiff did not know how to legally void the name on the tax rolls. In 2015 Plaintiff was

24 unable to file for property tax exemption due to Pierce County requirement to disclose

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1 health information/type of disability. Plaintiff again applied for relief in Sept 2018  
2 (noting that HIPPA disclosure was not required anymore) but application would be  
3 denied by Pierce County stating that the ownership requirement was not met (tax rolls  
4 still stated non-existent Trust as "owner"). Summary Judgement notification was  
5 procedurally defective as Trust did not have a registered agent to accept receipt and  
6 Plaintiff was not notified in her name. However, Plaintiff appeared to contest Summary  
7 Judgement, to no avail. Prior to auction sale date, Plaintiff filed for Chapter 13 in  
8 Bankruptcy Court. Began as a Pro Se but was required to get attorney at behest of  
9 Trustee. Plaintiff's standard Chapter 13 was converted to a non-standard Chapter 13 and  
10 Plaintiff was to sell real estate and pay the property tax arrears from proceeds. As  
11 indigent person, Plaintiff did not have the resources nor the ability to understand how to  
12 sell real estate. During this year, Washington State Legislator would create a law that  
13 increased the requirements of Counties to work with delinquent homeowners to avoid  
14 foreclosures. Despite this, Pierce County would move to sell the real estate thru an  
15 auction. Also during this year, Pierce County would refuse to allow Plaintiff to pay off  
16 arrears during period of redemption. Two business days prior to the Auction Sale,  
17 Plaintiff would receive notice thru her attorney, Jada Wood, that Pierce County would  
18 allow Plaintiff to pay full arrears so that Plaintiff could apply for exemption / deferral  
19 once arrears was paid. Auction Sale happened and a Real Estate Investment Trust would  
20 buy the real estate. Then COVID shut everything down. Auction Purchaser, F&J  
21 Orting/Puyallup, would file Quiet Title Action. On Sept 9, 2020 Plaintiff would be  
22 ejected from residence of 35 years. Sherriff Department would fail to advise Plaintiff of  
23 rights under CDC Eviction Moratorium Declaration. It would take almost 2 years for  
24 Plaintiff to receive Surplus Funds from Pierce County because they had failed in their

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Duty of Care to get clarity on the "Owner" issue. Judge Clarence Henderson of Pierce County Superior Court, Dept 21, would rule that: "had there been seller compliance" with a Real Estate Contract provision, "the recorded owner of the property would have been Mrs. Robinson-Martinez" (end of 2nd page of decision/Order).

## V. INJURIES

*If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.*

The physical injuries, related to above events, was damage to both hips which required bilateral hip replacement surgery (May 2022 and August 2022). There are also nerve issues at the neck that cause great pain. Treatment is forth coming now that hip replacement is done. Plaintiff was forced to move after 35 years without funds to hire help. Mental and emotional injuries required ongoing mental health counseling, to this date. There was substantial emotional distress, along with pain and suffering from being violated in privacy, liberty, due process and equal protection. Moreover events happened in the most sacred of places-one's domicile of long term.

## VI. RELIEF

*State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.*

Comes now the Plaintiff praying for the relief of monetary damages:

### Actual Damages

Loss of mortgage free home- tax assessment less surplus funds rcvd & back taxes paid \$247,000

Loss if irreplaceable home where resided for 35 years \$100,000.

Incidental cost- \$45,600.

RENT (26 mn x 1200)=31,200, STORAGE (26mn x 400)=10,400, MOVING (2,000), LEGAL FEES 2,000

Consequential Cost- replace things stolen by buyer \$10,000.

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1	<u>Medical Injury- pain and suffering</u>	<u>\$200,000.</u>
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2	<u>Emotional Injury – pain and suffering</u>	<u>\$200,000.</u>
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3	<u>SubTotal</u>	<u>\$802,600.</u>
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4	<u>Punitive Damages =</u>	<u>\$2,407,800.</u>
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5	<u>Total=</u>	<u>\$3,210,400.</u>
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## VII. CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 27 November 2022

Signature of Plaintiff



Printed Name of Plaintiff Karen Martinez